

utility deposits from its resources and/or other public or private sources.

(b) *When a Family vacates.* If a Family vacates the unit, the Owner, subject to State and local law, may use the security deposit as reimbursement for any unpaid Family Contribution or other amount which the Family owes under the Lease. If a Family vacates the unit owing no rent or other amount under the Lease consistent with State or local law or if such amount is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance to the Family.

(c) *Interest payable on deposits.* In those jurisdictions where interest is payable by the Owner on security deposits, the refunded amount shall include the amount of interest payable. The Owner shall comply with all State and local laws regarding interest payments on security deposits.

(d) *Insufficient deposits.* If the security deposit is insufficient to reimburse the Owner for the unpaid Family Contribution or other amounts which the Family owes under the Lease, or if the Owner did not collect a security deposit, the Owner may claim reimbursement from HUD for an amount not to exceed the lesser of: (1) The amount owed the Owner, (2) two months' Contract Rent, minus, in either case, the greater of the security deposit actually collected or the amount of security deposit the owner could have collected under the program (pursuant to paragraph (a) of this section). Any reimbursement under this section must be applied first toward any unpaid Family Contribution due under the Lease and then to any other amounts owed. No reimbursement shall be claimed for unpaid rent for the period after the family vacates.

§§ 886.316–886.317 [Reserved]

§ 886.318 Responsibilities of the owner.

(a) *Management and maintenance.* The owner shall be responsible for the management and maintenance of the project in accordance with requirements established by HUD. These responsibilities shall include but not be limited to:

(1) Payment for utilities and services (unless paid directly by the family), insurance and taxes;

(2) Performance of all ordinary and extraordinary maintenance;

(3) Performance of all management functions, including the taking of applications; determining eligibility of applicants in accordance with 24 CFR parts 812 and 813; selection of families, including verification of income, provision of Federal selection preferences in accordance with § 886.337, obtaining and verifying Social Security Numbers submitted by applicants (as provided by part 5, subpart B, of this title), obtaining signed consent forms from applicants for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided in part 5, subpart B, of this title), and other pertinent requirements; and determination of the amount of tenant rent in accordance with HUD established schedules and criteria.

(4) Collection of Tenant Rents;

(5) Preparation and furnishing of information required under the contract;

(6) Reexamination of family income, composition, and extent of exceptional medical or other unusual expenses; re-determinations, as appropriate, of the amount of Tenant Rent and amount of housing assistance payment in accordance with part 813 of the chapter; obtaining and verifying Social Security Numbers submitted by participants, as provided by CFR part 750; and obtaining signed consent forms from participants for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by part 5, subpart B, of this title.

(7) Redeterminations of the amount of Tenant Rent and the amount of housing assistance payment in accordance with part 813 of this chapter as a result of an adjustment by HUD of any applicable utility allowance;

(8) Notifying families in writing when they are determined to be qualified for assistance under this subpart where they have not already been notified by HUD prior to sale;

(9) Reviewing at least annually the allowance for utilities and other services;

(10) Compliance with equal opportunity requirements; and

(11) Compliance with Federal requirements set forth in § 886.313(c).

(b) *Contracting for Services.* Subject to HUD approval, any owner may contract with any private or public entity to perform for a fee the services required by paragraph (a) of this section: *Provided*, That such contract shall not shift any of the owner's responsibilities or obligations.

(c) *HUD review.* The owner shall permit HUD to review and audit the management and maintenance of the project at any time.

(d) *Submission of financial and operating statements.* After execution of the Contract, the owner must submit to HUD:

(1) Within 60 days after the end of each fiscal year of the project, financial statements for the project audited by an Independent Public Accountant in the form required by HUD, and

(2) Other statements as to project operation, financial conditions and occupancy as HUD may require pertinent to administration of the Contract and monitoring of project operations.

(Approved by the Office of Management and Budget under control numbers 2502-0204 and 2505-0052)

[44 FR 70365, Dec. 6, 1979, as amended at 49 FR 19949, May 10, 1984; 53 FR 1169, Jan. 15, 1988; 53 FR 6601, Mar. 2, 1988; 54 FR 39709, Sep. 27, 1989; 56 FR 7542, Feb. 22, 1991; 58 FR 43722, Aug. 17, 1993; 60 FR 14846, Mar. 20, 1995; 61 FR 11119, Mar. 18, 1996]

§ 886.319 Responsibility for contract administration.

HUD is responsible for administration of the Contract. HUD may contract with another entity for the performance of some or all of its Contract administration functions.

[60 FR 11860, Mar. 2, 1995]

§ 886.320 Default under the contract.

The contract shall contain a provision to the effect that if HUD determines that the owner is in default under the contract, HUD shall notify the owner of the actions required to be taken to cure the default and of the remedies to be applied by HUD including recovery of overpayments, where appropriate, and that if the owner fails to cure the default within a reasonable time as determined by HUD, HUD has

the right to terminate the contract or to take other corrective action, including rescission of the sale. When contract termination is under consideration by HUD, HUD shall give eligible families an opportunity to submit written and other comments. Where the project is sold under the arrangement that involves a regulatory agreement between HUD and the owner, a default under the regulatory agreement shall be treated as default under the contract.

§ 886.321 Marketing.

(a) *Marketing in accordance with HUD-Approved Plan.* Marketing of units and selection of families by the owner shall be in accordance with the owner's HUD-approved Affirmative Fair Housing Marketing Plan, HUD-approved tenant selection factors and with all regulations relating to fair housing advertising including use of the equal opportunity logotype, statement, and slogan in all advertising. Projects shall be managed and operated without regard to race, color, creed, religion, sex, or national origin.

(b)(1) HUD will determine the eligibility for assistance of families in occupancy before sales closing. After the sale, the owner shall be responsible for determining the eligibility of applicants for tenancy (including compliance with the procedures of 24 CFR part 812 on evidence of citizenship or eligible immigration status), selection of families from among those determined to be eligible (including provision of Federal preferences in accordance with § 886.337), and computation of the amount of housing assistance payments on behalf of each selected family, in accordance with the Gross Rent and the Total Tenant Payment computed in accordance with 24 CFR part 813. The owner shall pay any utility reimbursement to each family each month it is due. Local residency requirements are prohibited. Local residency preferences are discouraged and may be applied in selecting tenants only to the extent that they are not inconsistent with HUD's affirmative fair housing marketing objectives and the owner's HUD-approved Affirmative